

**STATEMENT OF
COMMISSIONER MEREDITH ATTWELL BAKER**

Re: *Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71

Over the last 20 years, local television broadcasters have been engaged in market-based negotiations with MVPDs over the right to retransmit local broadcast signals. I am pleased that these negotiations have been largely unencumbered by government micromanagement, and the results speak for themselves—the vast majority of retransmission consent negotiations are resolved privately, without government intervention, and without the loss of broadcast signals to MVPD subscribers.

Congress recognized the effectiveness of the private marketplace when it gave the Commission an extremely limited role in monitoring the retransmission consent market. In the 1992 Cable Act, Congress directed the Commission to monitor retransmission consent negotiations between broadcasters and MVPDs in order “to establish a marketplace for the disposition of the rights to retransmit broadcast signals.” Several years later, Congress provided further guidance, directing the Commission to ensure that the parties in a retransmission consent negotiation were proceeding in good faith. Congress, however, has never deviated from its directive that the Commission avoid “dictat[ing] the outcome of . . . marketplace negotiations” for retransmission consent.

Obviously the marketplace has changed significantly since the passage of the Cable Act. We have seen the number of programming networks increase exponentially, from an average of 281 in 2000 to an average of 565 in 2006. The means for viewing these channels have changed as well. When the Cable Act was passed, consumers had virtually no choice in video provider; today, most consumers have several choices for how they receive video programming. As the market has changed, we have seen the development of a generally understood market rate for cable channels such as TNT and ESPN, and I expect that eventually we will see market-based negotiations result in a generally understood market rate for ABC, CBS, Fox and NBC.

Against this backdrop of a clear statutory directive and a rapidly evolving marketplace, we initiate this proceeding to consider revisions to our existing rules governing retransmission consent. I am pleased that this item recognizes our limited statutory authority in this area, and instead of pursuing avenues that exceed that authority, the NPRM focuses on what we can do: revisit what constitutes “bad faith” in retransmission consent negotiations to provide more regulatory certainty and facilitate private negotiations. In addition, I am pleased that as part of this review we are taking a fresh look at some old regulations on our books and inquiring as to whether those regulations remain necessary. In keeping with the President’s recent executive order, we should be working to remove outdated regulations that stifle job creation and make our economy less competitive.

As we proceed with this rulemaking, I hope that we remain mindful that any steps we decide to take in this proceeding should be limited, should be focused on furtherance of the Congressional directive to facilitate marketplace negotiations, and should concentrate on the protection of consumers.